

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
SECOND SPECIAL SESSION

LEGISLATIVE BILL 34

Introduced by Appropriations Committee: Wehrbein, 2, Chairperson;
Beutler, 28; Bourne, 8; Cudaback, 36; Engel, 17;
Foley, 29; Kruse, 13; D. Pederson, 42; Thompson, 14

Read first time August 1, 2002

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-908, 77-2715.07, 77-2717, 77-2734.03, and 77-3806,
3 Revised Statutes Supplement, 2001, and section 77-2701,
4 Revised Statutes Supplement, 2001, as amended by Laws
5 2002, LB 57, section 2, and Laws 2002, LB 947, section 3;
6 to eliminate a child care tax credit; to harmonize
7 provisions; to repeal the original sections; and to
8 outright repeal section 77-27,222, Revised Statutes
9 Supplement, 2001, as amended by Laws 2001, First Special
10 Session, LB 4, section 1.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-908, Revised Statutes Supplement,
2 2001, is amended to read:

3 77-908. Every insurance company organized under the
4 stock, mutual, assessment, or reciprocal plan, except fraternal
5 benefit societies, which is transacting business in this state
6 shall, on or before March 1 of each year, pay a tax to the director
7 of one percent of the gross amount of direct writing premiums
8 received by it during the preceding calendar year for business done
9 in this state, except that (1) for group sickness and accident
10 insurance the rate of such tax shall be five-tenths of one percent
11 and (2) for property and casualty insurance, excluding individual
12 sickness and accident insurance, the rate of such tax shall be one
13 percent. The taxable premiums shall include premiums paid on the
14 lives of persons residing in this state and premiums paid for risks
15 located in this state whether the insurance was written in this
16 state or not, including that portion of a group premium paid which
17 represents the premium for insurance on Nebraska residents or risks
18 located in Nebraska included within the group when the number of
19 lives in the group exceeds five hundred. The tax shall also apply
20 to premiums received by domestic companies for insurance written on
21 individuals residing outside this state or risks located outside
22 this state if no comparable tax is paid by the direct writing
23 domestic company to any other appropriate taxing authority.
24 Companies whose scheme of operation contemplates the return of a
25 portion of premiums to policyholders, without such policyholders
26 being claimants under the terms of their policies, may deduct such
27 return premiums or dividends from their gross premiums for the
28 purpose of tax calculations. Any such insurance company shall

1 receive a credit on the tax imposed as provided in the Community
2 Development Assistance Act. ~~and section 77-27,222.~~

3 Sec. 2. Section 77-2701, Revised Statutes Supplement,
4 2001, as amended by Laws 2002, LB 57, section 2, and Laws 2002, LB
5 947, section 3, is amended to read:

6 77-2701. Sections 77-2701 to 77-27,135.01 ~~and 77-27,222~~
7 and section 3 of this act and section 1 of this act shall be known
8 and may be cited as the Nebraska Revenue Act of 1967.

9 Sec. 3. Section 77-2715.07, Revised Statutes Supplement,
10 2001, is amended to read:

11 77-2715.07. (1) There shall be allowed to qualified
12 resident individuals as a nonrefundable credit against the income
13 tax imposed by the Nebraska Revenue Act of 1967:

14 (a) A credit equal to the federal credit allowed under
15 section 22 of the Internal Revenue Code; and

16 (b) A credit for taxes paid to another state as provided
17 in section 77-2730.

18 (2) There shall be allowed to qualified resident
19 individuals against the income tax imposed by the Nebraska Revenue
20 Act of 1967:

21 (a) For returns filed reporting federal adjusted gross
22 incomes of greater than twenty-nine thousand dollars, a
23 nonrefundable credit equal to twenty-five percent of the federal
24 credit allowed under section 21 of the Internal Revenue Code of
25 1986, as amended;

26 (b) For returns filed reporting federal adjusted gross
27 income of twenty-nine thousand dollars or less, a refundable credit
28 equal to a percentage of the federal credit allowable under section

1 21 of the Internal Revenue Code of 1986, as amended, whether or not
2 the federal credit was limited by the federal tax liability. The
3 percentage of the federal credit shall be one hundred percent for
4 incomes not greater than twenty-two thousand dollars, and the
5 percentage shall be reduced by ten percent for each one thousand
6 dollars, or fraction thereof, by which the reported federal
7 adjusted gross income exceeds twenty-two thousand dollars; and

8 (c) A refundable credit for individuals who qualify for
9 an income tax credit under the Beginning Farmer Tax Credit Act for
10 all taxable years beginning or deemed to begin on or after January
11 1, 2001, under the Internal Revenue Code of 1986, as amended.

12 (3) There shall be allowed to all individuals as a
13 nonrefundable credit against the income tax imposed by the Nebraska
14 Revenue Act of 1967:

15 (a) A credit for personal exemptions allowed under
16 section 77-2716.01; and

17 (b) A credit for contributions to certified community
18 betterment programs as provided in the Community Development
19 Assistance Act. Each partner, each shareholder of an electing
20 subchapter S corporation, each beneficiary of an estate or trust,
21 or each member of a limited liability company shall report his or
22 her share of the credit in the same manner and proportion as he or
23 she reports the partnership, subchapter S corporation, estate,
24 trust, or limited liability company income.

25 (4) There shall be allowed as a credit against the income
26 tax imposed by the Nebraska Revenue Act of 1967:

27 (a) A credit to all resident estates and trusts for taxes
28 paid to another state as provided in section 77-2730; and

1 (b) A credit to all estates and trusts for contributions
2 to certified community betterment programs as provided in the
3 Community Development Assistance Act.

4 ~~(5) There shall be allowed to all business firms as a~~
5 ~~credit against the income tax imposed by the Nebraska Revenue Act~~
6 ~~of 1967 a credit as provided in section 77-27,222.~~

7 Sec. 4. Section 77-2717, Revised Statutes Supplement,
8 2001, is amended to read:

9 77-2717. (1) (a) The tax imposed on all resident estates
10 and trusts shall be a percentage of the federal taxable income of
11 such estates and trusts as modified in section 77-2716, plus a
12 percentage of the federal alternative minimum tax and the federal
13 tax on premature or lump-sum distributions from qualified
14 retirement plans. The additional taxes shall be recomputed by (i)
15 substituting Nebraska taxable income for federal taxable income,
16 (ii) calculating what the federal alternative minimum tax would be
17 on Nebraska taxable income and adjusting such calculations for any
18 items which are reflected differently in the determination of
19 federal taxable income, and (iii) applying Nebraska rates to the
20 result. The federal credit for prior year minimum tax, after the
21 recomputations required by the Nebraska Revenue Act of 1967, ~~and~~
22 ~~the credit provided in section 77-27,222~~ shall be allowed as a
23 reduction in the income tax due.

24 (b) The tax imposed on all nonresident estates and trusts
25 shall be the portion of the tax imposed on resident estates and
26 trusts which is attributable to the income derived from sources
27 within this state. The tax which is attributable to income derived
28 from sources within this state shall be determined by multiplying

1 the liability to this state for a resident estate or trust with the
2 same total income by a fraction, the numerator of which is the
3 nonresident estate's or trust's Nebraska income as determined by
4 sections 77-2724 and 77-2725 and the denominator of which is its
5 total federal income after first adjusting each by the amounts
6 provided in section 77-2716.

7 (2) In all instances wherein a fiduciary income tax
8 return is required under the provisions of the Internal Revenue
9 Code, a Nebraska fiduciary return shall be filed, except that a
10 fiduciary return shall not be required to be filed regarding a
11 simple trust if all of the trust's beneficiaries are residents of
12 the State of Nebraska, all of the trust's income is derived from
13 sources in this state, and the trust has no federal tax liability.
14 The fiduciary shall be responsible for making the return for the
15 estate or trust for which he or she acts, whether the income be
16 taxable to the estate or trust or to the beneficiaries thereof.
17 The fiduciary shall include in the return a statement of each
18 beneficiary's distributive share of net income when such income is
19 taxable to such beneficiaries.

20 (3) The beneficiaries of such estate or trust who are
21 residents of this state shall include in their income their
22 proportionate share of such estate's or trust's federal income.
23 ~~and shall reduce their Nebraska tax liability by their~~
24 ~~proportionate share of the credit as provided in section 77-27,222.~~
25 There shall be allowed to a beneficiary a refundable income tax
26 credit under the Beginning Farmer Tax Credit Act for all taxable
27 years beginning or deemed to begin on or after January 1, 2001,
28 under the Internal Revenue Code of 1986, as amended.

1 (4) If any beneficiary of such estate or trust is a
2 nonresident during any part of the estate's or trust's taxable
3 year, he or she shall file a Nebraska income tax return which shall
4 include ~~(a)~~ in Nebraska adjusted gross income that portion of the
5 estate's or trust's Nebraska income, as determined under sections
6 77-2724 and 77-2725, allocable to his or her interest in the estate
7 or trust and ~~(b)~~ a reduction of the Nebraska tax liability by his
8 or her proportionate share of the credit as provided in section
9 ~~77-27,222~~ and shall execute and forward to the fiduciary, on or
10 before the original due date of the Nebraska fiduciary return, an
11 agreement which states that he or she will file a Nebraska income
12 tax return and pay income tax on all income derived from or
13 connected with sources in this state, and such agreement shall be
14 attached to the Nebraska fiduciary return for such taxable year.

15 (5) In the absence of the nonresident beneficiary's
16 executed agreement being attached to the Nebraska fiduciary return,
17 the estate or trust shall remit a portion of such beneficiary's
18 income which was derived from or attributable to Nebraska sources
19 with its Nebraska return for the taxable year. The amount of
20 remittance, in such instance, shall be the highest individual
21 income tax rate determined under section 77-2715.02 multiplied by
22 the nonresident beneficiary's share of the estate or trust income
23 which was derived from or attributable to sources within this
24 state. The amount remitted shall be allowed as a credit against
25 the Nebraska income tax liability of the beneficiary.

26 (6) The Tax Commissioner may allow a nonresident
27 beneficiary to not file a Nebraska income tax return if the
28 nonresident beneficiary's only source of Nebraska income was his or

1 her share of the estate's or trust's income which was derived from
2 or attributable to sources within this state, the nonresident did
3 not file an agreement to file a Nebraska income tax return, and the
4 estate or trust has remitted the amount required by subsection (5)
5 of this section on behalf of such nonresident beneficiary. The
6 amount remitted shall be retained in satisfaction of the Nebraska
7 income tax liability of the nonresident beneficiary.

8 (7) For purposes of this section, unless the context
9 otherwise requires, simple trust shall mean any trust instrument
10 which (a) requires that all income shall be distributed currently
11 to the beneficiaries, (b) does not allow amounts to be paid,
12 permanently set aside, or used in the tax year for charitable
13 purposes, and (c) does not distribute amounts allocated in the
14 corpus of the trust. Any trust which does not qualify as a simple
15 trust shall be deemed a complex trust.

16 Sec. 5. Section 77-2734.03, Revised Statutes Supplement,
17 2001, is amended to read:

18 77-2734.03. (1)(a) For taxable years commencing prior to
19 January 1, 1997, any (i) insurer paying a tax on premiums and
20 assessments pursuant to section 77-908 or 81-523, (ii) electric
21 cooperative organized under the Joint Public Power Authority Act,
22 or (iii) credit union shall be credited, in the computation of the
23 tax due under the Nebraska Revenue Act of 1967, with the amount
24 paid during the taxable year as taxes on such premiums and
25 assessments and taxes in lieu of intangible tax.

26 (b) For taxable years commencing on or after January 1,
27 1997, any insurer paying a tax on premiums and assessments pursuant
28 to section 77-908 or 81-523, any electric cooperative organized

1 under the Joint Public Power Authority Act, or any credit union
2 shall be credited, in the computation of the tax due under the
3 Nebraska Revenue Act of 1967, with the amount paid during the
4 taxable year as (i) taxes on such premiums and assessments included
5 as Nebraska premiums and assessments under section 77-2734.05 and
6 (ii) taxes in lieu of intangible tax.

7 (c) For taxable years commencing or deemed to commence
8 prior to, on, or after January 1, 1998, any insurer paying a tax on
9 premiums and assessments pursuant to section 77-908 or 81-523 shall
10 be credited, in the computation of the tax due under the Nebraska
11 Revenue Act of 1967, with the amount paid during the taxable year
12 as assessments allowed as an offset against premium and related
13 retaliatory tax liability pursuant to section 44-4233.

14 (2) There shall be allowed to corporate taxpayers a
15 credit for nonhighway use motor vehicle fuels as provided in
16 section 66-4,124.

17 (3) There shall be allowed to corporate taxpayers a tax
18 credit for contributions to community betterment programs as
19 provided in the Community Development Assistance Act.

20 (4) There shall be allowed to corporate taxpayers a
21 refundable income tax credit under the Beginning Farmer Tax Credit
22 Act for all taxable years beginning or deemed to begin on or after
23 January 1, 2001, under the Internal Revenue Code of 1986, as
24 amended.

25 ~~(5) There shall be allowed to corporate taxpayers a tax~~
26 ~~credit as provided in section 77-27,222.~~

27 Sec. 6. Section 77-3806, Revised Statutes Supplement,
28 2001, is amended to read:

1 77-3806. (1) The tax return shall be filed and the total
2 amount of the franchise tax shall be due on the fifteenth day of
3 the third month after the end of the taxable year. No extension of
4 time to pay the tax shall be granted. If the Tax Commissioner
5 determines that the amount of tax can be computed from available
6 information filed by the financial institutions with either state
7 or federal regulatory agencies, the Tax Commissioner may, by
8 regulation, waive the requirement for the financial institutions to
9 file returns.

10 (2) Sections 77-2714 to 77-27,135 relating to
11 deficiencies, penalties, interest, the collection of delinquent
12 amounts, and appeal procedures for the tax imposed by section
13 77-2734.02 shall also apply to the tax imposed by section 77-3802.
14 If the filing of a return is waived by the Tax Commissioner, the
15 payment of the tax shall be considered the filing of a return for
16 purposes of sections 77-2714 to 77-27,135.

17 (3) No refund of the tax imposed by section 77-3802 shall
18 be allowed unless a claim for such refund is filed within ninety
19 days of the date on which (a) the tax is due or was paid, whichever
20 is later, or (b) a change is made to the amount of deposits or the
21 net financial income of the financial institution by a state or
22 federal regulatory agency.

23 (4) Any such financial institution shall receive a credit
24 on the franchise tax as provided under the Community Development
25 Assistance Act. ~~and section 77-27,222.~~

26 Sec. 7. Original sections 77-908, 77-2715.07, 77-2717,
27 77-2734.03, and 77-3806, Revised Statutes Supplement, 2001, and
28 section 77-2701, Revised Statutes Supplement, 2001, as amended by

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1 Laws 2002, LB 57, section 2, and Laws 2002, LB 947, section 3, are
2 repealed.

3 Sec. 8. The following section is outright repealed:
4 Section 77-27,222, Revised Statutes Supplement, 2001, as amended by
5 Laws 2001, First Special Session, LB 4, section 1.